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**DECISION**

THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

M. Boyle

PL I

FILE: B-190760

DATE: March 15, 1978

MATTER OF: Ads Audio Visual Productions, Inc.

**DIGEST:**

1. Protester argues that agency should have obtained technical advice from audio-visual personnel in other Government agencies and challenges technical qualifications of agency's evaluators. Agency did obtain technical advice from other Government agencies. Responsible positions held by agency evaluators constitute prima facie showing of their qualifications and with nothing more than unsubstantiated allegations regarding evaluators' qualifications, GAO has no basis to examine or question evaluators' qualifications.
2. Protester contends that (1) awardee received preferred treatment by agency evaluators, (2) award should have been based on lowest proposed price, all other things being equal, and (3) agency overlooked advantages of its proposal and deficiencies in awardee's proposal. Determination of proposals' relative merit is responsibility of contracting agency and must not be disturbed unless shown to be arbitrary or in violation of procurement statute or regulation. After examining RFP's evaluation scheme and evaluations, and protester's arguments, GAO must conclude that evaluation was performed in accord with scheme and was based on reasoned judgment of evaluators.

Ads Audio Visual Productions, Inc. (Ads), protests the award of contract No. T-gfo-78-4 to Action Productions, Inc. (Action), pursuant to request for proposals (RFP) No. BGFO 78-3 issued by the Department of the Treasury, Bureau of Government Financial Operations (GFO). The RFP was for the scripting, production, reproduction, and distribution of radio public service announcements on GFO's direct deposit program-- to encourage the recipients of recurring Government payments to use the electronic funds transfer method instead of receiving payments by check.

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Eight vendors, including Ads, were requested to submit proposals and Ads, Action, and Filmmakers, Inc., submitted proposals. The proposals were evaluated by a four-member panel consisting of (1) a contract specialist (who reviewed the proposals to ascertain whether the RFP's requirements were satisfied), (2) the supervisor of the program analysts who administer the direct deposit program, and (3) two technical advisors, who have an in-depth background on the program, its operations and its impact and who assisted in the preparation of the RFP's statement of work and technical evaluation factors. The RFP disclosed that the following criteria would be used in evaluating proposals:

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| (1) Proposed manner for producing scripts and rough treatments provided                                    | 30% |
| (2) Past performance   | 25% |
| (3) Availability of same production personnel used in spot   | 5%  |
| (4) Availability of same director used successfully in last three or more years - listing two alternatives | 25% |
| (5) Capability of sound research   | 5%  |
| (6) Availability of equipment  | 5%  |
| (7) Cost.  | 5%  |

Evaluations of the offers (compiled with technical assistance from the Internal Revenue Service (IRS), Department of Transportation, and General Services Administration) showed that all three were considered to be about equal in all categories but (1) above, the proposed manner for producing scripts. There, Action's score was 23, Filmmakers' was 19, and Ads' was 11--a lead which proved to be the margin of victory for Action. In the evaluators' judgment, (1) Action's proposed treatments showed the most interaction for audience attention, (2) its facilities, equipment,

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and background were excellent and its cost was \$41,871, and (3) its script treatments were not 100 percent acceptable but showed more potential because they reflected more action, which gave the spots audience appeal--with charges in the dialogue, six of the eight scripts were acceptable for a rate of 75 percent acceptable (75 percent x 30 possible points = 23 points).

By comparison, the evaluators concluded that (1) Ads' background, facilities, and equipment for radio were excellent, (2) Ads' overall proposal to utilize famous radio stars was excellent and the Charlie McCarthy script treatment was the best single spot of all the treatments; however, the problem with its other treatments was redundancy of phrases in the scripts, thus it has two, possibly three, good spots for an acceptable percentage of 38 percent (38 percent x 30 possible points = 11 points), and (3) its total cost was \$32,047.40 with a 10-percent, prompt-payment discount within 20 days for a total of \$28,842.66.

Based on the evaluators' recommendations, award was made to the highest-rated offeror, Action. Ads essentially contends that its proposal was not fairly and properly evaluated relative to Action's proposal.

First, Ads contends that its proposal was evaluated by persons who were unqualified to understand the media. Ads states that the evaluators should have been professional audio-visual personnel selected from other Government agencies. Ads argues that qualified evaluators would have known that the uniform use of phrases and statements is mandatory in the creation of successful communications campaigns. GFC, in response, contends that Ads' charges are unsubstantiated and Action states that all concerned were qualified, intelligent, and knowledgeable on the subject.

We note that GFO's evaluators did have the advice of audio-visual personnel from other Government agencies as Ads suggests it should have had. With regard to the qualifications of the technical advisers and evaluators, as a general rule, we will not become involved in appraising

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the qualifications of contracting agencies personnel. See, Joseph Legat Architects, B-187160, December 13, 1977, 77-2 CPD 458, and cases cited therein. Here, we believe that the important and responsible positions held by the agency evaluators constitute a prima facie showing that they are qualified; with nothing more than the protester's unsubstantiated allegations regarding the evaluators' qualifications, we have no basis to examine or question the evaluators' qualifications.

Secondly, Ads contends that Action received preferential treatment since other bureaus of the Department of the Treasury recently awarded contracts to Action. GFO admits that Action was previously awarded the contract for producing the television public service announcements on the direct deposit program and that the IRS also recently awarded a contract to Action. However, GFO states that each bureau of the Department of the Treasury awards contracts independently and that GFO's prior award to Action was fully in accord with procurement laws and regulations. Action also denies any favored treatment from GFO or any bureau of Treasury.

Thirdly, Ads contends that the cost of the contract was far in excess of the standard charges for similar work, and that, all other things being equal, award should have been made to Ads because it submitted the lowest price. Action, in response, contends that Ads is in no position to determine "standard charges" for Action, the industry, or the Government. GFO explains that cost was only one of seven factors evaluated and was not even a significant factor. GFO determined that the technical quality of the proposals was far more important to the accomplishment of this project than any cost consideration, provided such costs were, as here, reasonable. GFO points out that all other things were not equal and Action's technical aspects outweighed Ads' cost advantages.

Fourthly, Ads contends that the evaluators overlooked several advantages of Ads' proposal, namely: (1) significant credit should have been awarded to the company, like Ads, which maintains on-site all elements required for contract performance; (2) Ads listed 156

past projects for radio, most of them for the Government, while Action listed only four projects, three of which were for Government; and (3) Ads offered to save the Government \$7,000 by releasing the completed material on disc, rather than type, to permit FM stations to use the material in stereo. Ads also contends that the evaluators overlooked several deficiencies of Action's proposal, namely: (1) Action named specific talent in its proposal but past experience shows that named talent could not be obtained by Action; and (2) Action submitted scripts, not the script treatments requested.

In response, GFO contends that: (1) it was reasonable and proper for the contracting officer to conclude that equipment was sufficiently available through rental from specified sources since GFO's audio-visual technical advisor maintains that renting equipment is becoming the preferred method in the industry for obtaining the best quality in equipment; (2) although the RFP listed past performance as one of the major factors to be rated, there was no indication that Government experience was more relevant than other experience in the industry and no premium was awarded for the length of an offeror's past performance list--the quality of the experience was deemed more significant; (3) while the RFP requested treatments, tentative phrasing was welcome in the treatments and Ads used quotation marks in many of its treatments to indicate a speaking situation; and (4) in its final product, Action obtained three of the specifically named talents and exact character types for three others. The contracting officer acknowledges the difficulty in obtaining specific talent and it is the problem of the contractor to find suitable substitutes, if required.

The thrust of Ads' second, third, and fourth contentions primarily concerns the reasonableness of GFO's evaluation of Ads' proposal relative to other offerors--principally Action's. As we have frequently stated, it is not the function of our Office to evaluate proposals in order to determine which should have been selected for award; the determination of the relative merits of proposals is the responsibility of the contracting agency

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and must not be disturbed unless shown to be arbitrary or in violation of procurement statute or regulation. See Tracor, Inc., 56 Comp. Gen. 62 (1976), 76-2 CPD 386; Pharos Inc., B-188454, July 13, 1977, 77-2 CPD 19; First Harlem Management Corporation, B-188454, July 7, 1977, 77-2 CPD 12. After examining the RFP's evaluation scheme, the evaluations, the protester's arguments and the agency's responses, we must conclude that the evaluation was conducted in accord with the evaluation scheme and was based on the reasoned judgment of the evaluators.

Protest denied.

Deputy

*R. F. K. H. M.*  
Comptroller General  
of the United States